

Internal Revenue Service
District Director

Department of the Treasury

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

EIN: [REDACTED]

Date: MAR 09 1992

Dear Sir or Madam:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

We have also considered whether you qualify for exemption from Federal income tax as an organization described in section 501(c)(4) of the Code.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

Your Articles of Incorporation state that you are formed "to manage, maintain and preserve the residential condominium project known as [REDACTED]..."

In Part II, Question 1, of Form 1023, you indicate that you were formed "to collectively manage the common areas of the condominium unit located at [REDACTED]..."

Your membership is based on ownership of one of the condominium units. There are [REDACTED] units in the condominium building. Your revenue is derived exclusively from member dues and assessments.

Section 501(c) of the Code describes certain organizations exempt from income tax under section 501(a) and reads, in part, as follows:

"(3) Corporations, and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but

only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office."

"(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations requires an organization to serve public rather than private interests in order to be organized and operated exclusively for religious, charitable, educational, etc., purposes.

Section 1.501(c)(4)-1(a) of the Income Tax Regulations provides that a civic league or organization described in section 501(c)(4) of the Code may be exempt if it is not organized or operated for profit and is operated exclusively for the promotion of social welfare. The Regulations describe social welfare as promoting in some way the common good and general welfare of the people of the community. A section 501(c)(4) organization is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 74-17, 1974-1 C.B. 130, provides that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of the common areas of the project, as defined by State statute, with the membership assessments paid by the unit owners does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code. The services provided constitute private benefits not within the purview of section 501(c)(4).

This ruling may be distinguished from Revenue Ruling 74-99, 1974-1 C.B. 131, which provides that, to qualify for exemption under section 501(c)(4), a homeowners association must (1) serve a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) not conduct activities directed to the exterior maintenance of private residences, and (3) make the common areas or facilities it owns and maintains available for the use and enjoyment of the general public.

The Internal Revenue Service takes the position that in order for an organization to qualify for exemption from Federal income tax as a social welfare organization described in section 501(c)(4) of the Code, it must be primarily engaged in promoting in some way the common good and general welfare of the community as a whole.

The activities you engage in constitute private benefit to members and are not within the purview of section 501(c)(3) or 501(c)(4) of the Code.

Accordingly, we hold that you are not entitled to exemption from Federal income tax as an organization described in 501(c)(3) or section 501(c)(4) of the Code.

You appear to be a condominium management association as defined in section 528 of the Internal Revenue Code. Such an association is taxed as a corporation, but with modification of income. The modification permits exclusion of exempt function income for tax years beginning after December 31, 1973. Exempt function income is any amount received as membership dues, fees, or assessments from owners of condominium housing units. You may elect to be treated as a section 528 homeowners association by filing Form 1120-H, Income Tax Return for Homeowners Association.

Contributions made to you are not deductible as charitable contributions as defined in section 170(c) of the Code.

You agreed to this determination by signing Form 6018, Consent to Proposed Adverse Action, on [REDACTED].

You are required to file income tax returns annually with your district director.

Sincerely yours,

[REDACTED]
District Director